

MDR Tracking Number: M5-04-0662-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on October 31, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises, electrical stimulation-unattended, manual traction, myofascial exercises, hot or cold packs and massage therapy were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 03/07/03 through 05/08/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 22nd day of January 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 1/19/04

MDR Tracking Number: M5-04-0662-01

January 13, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

___ sustained a lumbar lifting injury ___. He initially received three weeks of therapy prescribed by ___ and was taken off work. Due to lack of improvement he was referred to ___ on 7/12/02. He was provided medications and intramusculature injections. An MRI was performed 7/17/02 and ___ informed the patient his situation would require surgery. Unhappy with this news, the patient wanted a second opinion. He was eventually placed at MMI when he refused to proceed with surgical intervention. On 11/5/02 ___ assessment was that the patient was not at MMI and on 11/15/02 ___ performed an EMG/NCV with findings suggesting an L5-S1 radiculopathy. TWCC approved a change of treating doctors on 12/12/02 and ___ started caring for ___. On 1/3/03 a second treatment plan was developed by ___. The patient subjectively reported improvement during this period. However, due to continued levels of pain, on 2/7/03 he received his first of three steroid injections. The next injections followed

on 3/3/03 and 5/9/03. After each injection the patient reported improvement with his condition and objective findings supported his claims.

A CT myelogram performed 3/20/03 suggested there was not a need for surgical intervention and therapy should be continued.

Designated Doctor ___ saw the patient on 4/16/03 and did not believe he had reached MMI and estimated it would be 7/17/03 before MMI would be reached.

REQUESTED SERVICE (S)

Therapeutic exercises, electrical stimulation-Unattended, manual traction, myofascial exercises, hot or cold packs, and massage therapy for dates of service 3/7/03 through 5/8/03.

DECISION

Treatment was warranted.

RATIONALE/BASIS FOR DECISION

___ subjectively reported improvement with his treatment during this time frame. Texas Labor Law allows for reasonable treatment that relieves the injured workers symptoms. He was also objectively showing improvement during this time. he second steroid injection was performed 3/3/03 which is two days prior to the dates in dispute. Acceptable standards of care require therapy and rehabilitation to be performed in conjunction with these injections. Based on the records reviewed, the patient continued to show improvement during this time span and the records reflect sound treatment protocols and timely decisions made regarding care.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 19th day of January 2004.